

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

—X

STEPHEN DRAGO, Individually and as
Acting Chair and President of
"Neighborhoods Against Cell Towers"

08 CIV 6356 (SCR)

Plaintiffs,

- against -

JOHN S. GARMENT, Chairman, and STEPHEN
A. ALEXANDER, JOHN E. DURANTE,
CASIMIRO V. CIBELLI, ARNOLD BERNSTEIN,
MICHAEL F. QUINN, and JOHN J. IORIS,
as Members of the Planning Board of
the City of White Plains; THE CITY OF
WHITE PLAINS, New York, and METROPCS
NEW YORK, LLC,

Defendants.

—X

COUNSELOR


NOTICE OF MOTION
TO DISMISS PLAINTIFFS'
COMPLAINT PURSUANT TO
FRCP 12(b)(6)

PLEASE TAKE NOTICE that upon the affidavit of Arthur Gutekunst sworn to the 5th day of September, 2008, the accompanying Memorandum of Law and the complaint herein, the defendants, John S. Garment, Chairman, and Stephen A. Alexander, John E. Durante, Casimiro V. Cibelli, Arnold Bernstein, Michael F. Quinn, and John J. Ioris, as Members of the Planning Board of the City of White Plains and the City of White Plains, New York, ("The City Defendants") hereby move this Court on October 7, 2008 at 10:00 AM or soon thereafter as counsel may be heard at the United States Courthouse, 300 Quarropas Street, Courtroom 621, White Plains, New York 10601, for an order granting the City Defendants'

motion to dismiss Plaintiffs' Complaint pursuant to the Federal Rules of Civil Procedure Rule 12(b)(6) for Plaintiffs' failure to state a claim upon which relief can be granted by this Court, and for such other and further relief as this court deems just and proper.

Dated: White Plains, New York
September 5, 2008

Yours, etc.
EDWARD P. DUNPHY
Corporation Counsel

By: 
Arthur Gutekunst
Sr. Ass't Corporation Counsel
Attorney for City of White Plains
Defendants
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CERTIFICATE OF SERVICE

JOHN S. GARMENT, Chairman, and STEPHEN
A. ALEXANDER, JOHN E. DURANTE,
CASIMIRO V. CIBELLI, ARNOLD BERNSTEIN,
MICHAEL F. QUINN, and JOHN J. IORIS,
as Members of the Planning Board of
the City of White Plains; THE CITY OF
WHITE PLAINS, New York, and METROPCS
NEW YORK, LLC,

Defendants.

—X

I hereby certify that on September 5, 2008, copies of the foregoing:

**NOTICE OF MOTION TO DISMISS PLAINTIFF'S COMPLAINT, TOGETHER WITH ALL
PAPERS IN SUPPORT THEREOF**

were filed through the Electronic Case Filing (E.C.F.) procedure under
the United States District Court of Southern New York's local rules and
served upon all parties of record by email (through E.C.F.) as follows:


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certiorari@earthlink.net

Dated: White Plains, New York
September 5, 2008

EDWARD P. DUNPHY
Corporation Counsel

By: 
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